

CASE MOST UNIQUE IN CRIMINAL ANNALS.

[Concluded from last page]

as the grave. He sat cold and impassive.

Mr. Blease concluded and offered Edwards a cigar, but Edwards still made no move.

Mr. F. H. Dominick, represented Sanders, followed Mr. Blease on cross-examination, and met with the same death-like silence.

CROSS-EXAMINATION A CONSTITUTIONAL RIGHT.

Mr. Dominick asked that the witness be adjudged in contempt of court and forced off the stand. Under the present status, Mr. Dominick did not think his client had received his rights, and thought these rights would not be received unless the whole testimony should be purged from the record.

Judge Haynesworth ordered the witness to answer and Mr. Dominick continued his examination, but there was no response from Edwards.

Mr. I. H. Hunt, representing Tom Gary, came next and met with the same fate.

Mr. Blease, on behalf of all the defendants, moved to exclude Edwards' testimony from the record on the same ground as that taken by Mr. Dominick.

The Solicitor held that the defense had had full opportunity to cross-examine the witness and the power of the court had been exhausted to give them this right.

A RECESS TAKEN.

Judge Haynesworth granted a recess of twenty minutes in which the attorneys might look up authorities.

The Solicitor and the five attorneys left the court room, and came back, one by one, each bearing several law books under his arm and a serious look on his face. Probably they had never before seen the courts defied and the whole machinery of justice rendered powerless by a stubborn negro. Possibly no one else ever has.

THE SOLICITOR OPENS.

The Solicitor opened the argument, saying he had no direct authority on the point at issue, but he was convinced the matter was largely in the discretion of the court. However, to strike the testimony from the record would be tantamount to a defeat of justice, and under this view any witness refusing to answer and going to jail for contempt and never agreeing to answer could defeat justice.

Mr. Blease argued the constitutional right of the defense to cross-examination. While the court had exhausted every effort, the defense had been denied the right of cross-examination by the same power that had driven into the minds of the jury that upon which the State hoped to convict the defendant here of murder.

EDWARDS' TESTIMONY REMAINED.

Judge Haynesworth said that the constitution guaranteed to the defendant the right to be faced by the witnesses, thus guaranteeing the right of cross-examination. Were it to be abridged in any way by the court, it would be an error of law; but where the court had done its utmost to guarantee this right, he did not think any error had been committed when the witness, by stubbornness or otherwise, denied the defendant this right. The jury had witnessed the conduct of the witness, and it was for them to say if they would give any credence to his evidence, and if so, how much.

MR. DOMINICK'S AUTHORITIES.

Mr. Dominick cited several foreign authorities in support of his contention, but he was again overruled.

EDWARDS CAME DOWN.

Edwards was called off the stand.

OBJECTS TO MORE TESTIMONY.

Mr. Blease, on behalf of all the defendants, objected to the introduction of any more testimony until after receiving the right of cross-examination of Edwards.

This motion was overruled.

EDWARDS' WIFE.

Viola Edwards, Elijah's wife, was placed on the stand. She corroborated Edwards as to Edwards and Sanders coming to her house together on the night of the killing and going off together. They both came back and went to bed and she woke them up about four o'clock in the morning, when she saw the fire. They went on down to Tom Gary's house and saw him sitting on his piazza.

Cross-examined by Mr. Dominick, witness said Sanders came to her house about sundown, went off with Edwards and came back in about half an hour, and spent the rest of the night there.

Cross examined by Mr. Blease, witness denied intimate relations between herself and Kinard.

MIGHT REVERSE DECISION.

The Judge at this point, about six o'clock, announced that he would receive no more testimony until next day; that the authorities presented by Mr. Dominick had considerably shaken his faith in his former ruling and he would consider the matter during the night.

The court stood adjourned.

THURSDAY'S SESSION.

When court convened Thursday morning Judge Haynesworth asked if there was any further argument as to the exclusion of Edwards' testimony. The question was argued at some length, the defense producing additional authorities.

Judge Haynesworth adhered to his ruling of the day before, admitting Edwards' testimony.

The State produced evidence to prove that the watches found in the house occupied last year by Edwards were Kinard's property and that they had been placed in the house by Sanders after the killing.

The State presented Henry Johnson, colored, as a witness. The defense objected on the ground that Johnson was disqualified by reason of having been convicted at this court of carrying unlawful weapons. The objection was overruled and Johnson testified that while he was in jail Sanders told him he placed the watches in the house.

Mr. E. M. Evans, sworn, saw Kinard with \$200 or \$300 shortly before he was killed. J. W. Derrick testified that Washington was around Kinard a great deal and had opportunity to know Kinard's business. Lee Buzhardt testified that he saw Kinard near the oil mill in Newberry about four o'clock in the morning after the burning.

The State closed.

THE MUCH DISCUSSED QUESTION.

Judge Haynesworth stated his reasons for refusing to expunge Edwards' testimony from the record. Had the court in any way abridged the right of cross-examination it would have been an error of law. But where the witness prevents the defense from getting the full effect of his testimony, that is a matter which the court could not correct, and the whole matter was presented to the jury and it was for them to determine what credence, if any, they would give the testimony. He had nothing but his judgment on which to base his opinion, there never having been exactly a similar case.

As a matter of record, Mr. Blease, on behalf of all the defendants, moved to strike from the record the testimony of each and every witness after Edwards, citing authorities. The motion was overruled.

The Judge asked to hear the Solicitor as to whether or not he should order an acquittal for Greenwood

Washington, on the ground that a defendant could not be convicted on the uncorroborated testimony of an accomplice.

Mr. Bynum moved that a verdict be directed for Gary on the same ground.

The matter was argued at length, the Solicitor finally consenting not to ask for a verdict of guilty as to Washington and Gary, and the jury retired to consider the case of Sanders.

Mr. Dominick for Sanners put up no testimony, but made an able argument in reply to the Solicitor.

The verdict was not guilty.

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